

**UNITED STATES DISTRICT COURT
DISTRICT OF WESTERN NORTH CAROLINA**

WHY DRIVE 55, INC.,

Plaintiff,

-against-

**BONNIE DUNCAN, JOSEPH W. DUNCAN,
STEVEN J. ALLEN, DOVE AIR, INC.,
CONAIR JET SALES, INC., EDD CONN,
ROBERT HETTINGER, BILL JOHNSON,
ALYSSA DUNCAN, JOHN DOE AND JANE
DOE,**

Defendants.

Civil Action
No: 1:11-CV-297

**AFFIDAVIT IN SUPPORT OF
MOTION FOR DEFAULT
JUDGMENT AGAINST
DEFENDANTS EDD CONN
AND CONN AIR, INC.**

STATE OF NORTH CAROLINA)
).ss:
COUNTY OF BUNCOMBE)

Michael Selverne, being duly sworn, deposes and says:

1. I am the President of plaintiff, Why Drive 55, Inc., and I have personal knowledge of the facts and circumstances contained herein. I submit this affidavit in support of the plaintiff's motion for a default judgment against defendants, Edd Conn (hereafter "Conn") and Conn Air, Inc (hereafter "Conn Air"), and to set forth the sum certain upon which judgment can be entered.

2. At all relevant times herein, plaintiff was and is the legal and registered owner of that certain King Air 200 aircraft identified by serial number BB-150 and registration number n107FL (the "Aircraft").

3. On or about April 1, 2009, Plaintiff delivered the Aircraft to defendants Joseph W. Duncan (hereafter "Duncan") and Dove Air, Inc., ("Dove") for the purpose of Duncan and Dove arranging for the sale of the Aircraft.

4. In or about December of 2009, Duncan advised your deponent that Duncan had arranged a sale of the Aircraft and that plaintiff would receive a total of \$700,000 from the sale proceeds.

5. Plaintiff has received a total of \$250,000 from defendants Duncan and Dove. Despite demands therefor, plaintiff has not received the balance of \$450,000 that is owed from the sale of the Aircraft.

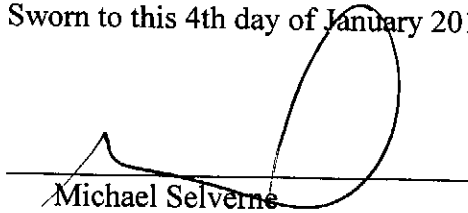
6. On or about December 8, 2010, your deponent spoke with Edd Conn by telephone wherein Conn admitted that he had sold the Aircraft and received \$700,000 from such sale. Following that conversation, Conn sent your deponent an email confirming the foregoing admission. A true and correct copy of the email from Conn confirming his receipt of the \$700,000 is annexed hereto and incorporated herein as Exhibit A.

7. I am advised by my attorneys that Conn has confirmed in writing his receipt of the summons and complaint in this matter and has elected not to interpose an answer or otherwise respond thereto. A copy of this letter is annexed hereto and incorporated herein as Exhibit B.

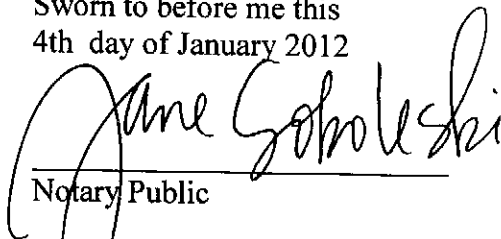
WHEREFORE, your deponent prays that this Court enter an order and judgment, jointly and severally, against Conn and Conn Air granting plaintiff's claim for compensatory damages in the amount of four hundred fifty thousand (\$450,000) dollars or in the alternative granting plaintiff's claim for treble damages by virtue of the subject

defendants' fraud in the amount of one million three hundred fifty thousand (\$1,350,000) dollars.

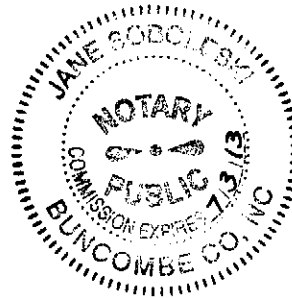
Sworn to this 4th day of January 2012.


Michael Selverne

Sworn to before me this
4th day of January 2012


Notary Public

My commission expires: 7-3-13



Michael Selverne

From: Edd Conn [REDACTED]@bellsouth.net]
Sent: Wednesday, December 08, 2010 1:15 PM
To: Michael Selverne
Subject: Re: FL/Joe Duncan
Attachments: image001.jpg

Michael,

I am not sure of exactly all the numbers but I will look them up. Please understand that I have been doing business with Joe for over 30 years and not only do we do business, he is also my friend. All my dealings with Joe in the past, I have never had a problem. Joe and I have never needed a contract between us. I have never even heard your name until the last few days. I do not have any kind of contract with you and the contract that you have is between me and a company in Mexico. I understand that Dove Air has been trying to get you to send a Bill of Sale to Insured Aircraft Title Service for some time now and then you would be paid. My only interest in this deal is getting a customer his title.

Thanks,

Edd Conn

From: Michael Selverne <[REDACTED]@bellsouth.net>
To: Edd Conn <[REDACTED]@bellsouth.net>
Sent: Wed, December 8, 2010 10:43:24 AM
Subject: RE: FL/Joe Duncan

Thank you for the quick response. I appreciate it.

So, you sent the 700K to Joe?

Thanks again,

Selverne
Company

Selverne & Company, PLLC
83 Riverside Drive
New York, New York 10024
(t) 212-259-3900 212-259-3900 -
Ext. 701
(f) 888-709-8533 888-709-8533

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Please consider the environment before printing this e-mail

From: Edd Conn [[mailto:\[REDACTED\]@bellsouth.net](mailto:[REDACTED]@bellsouth.net)]
Sent: Wednesday, December 08, 2010 10:40 AM
To: Michael Selverne
Subject: Re: FL/Joe Duncan

From: Michael Selverne <[\[REDACTED\]@bellsouth.net](mailto:[REDACTED]@bellsouth.net)>
To: [\[REDACTED\]@bellsouth.net](mailto:[REDACTED]@bellsouth.net)
Cc: Michael Selverne <[\[REDACTED\]@bellsouth.net](mailto:[REDACTED]@bellsouth.net)>
Sent: Wed, December 8, 2010 8:09:55 AM
Subject: FL/Joe Duncan

Ed,

Thank you for speaking with me yesterday and for being so forthcoming.

I truly apologize for my tone, however, you can imagine my shock when you told me that Joe Duncan had been paid \$750,000 and that he failed to pay me or the bank.

I can imagine that you were similarly not pleased to find out that there is a lien in place and that Joe was not the owner of the aircraft.

I know you spoke to Joe yesterday and I spoke to his lawyer who was not pleased at this news.

My suggestion is that you and I work together and cooperate to get the bank paid, lien released and bill of sale for your buyer. That way, you and I move ahead with no problems from this transaction. This is a business problem and requires a business solution. Litigation serves no one's interest here and hence I am advocating open communication and cooperation.

So that I can get this matter settled ASAP, please provide me with the date(s) and amount of payment to Joe.

I do appreciate your cooperation and apologize again for being rude.

My cell number is [\[REDACTED\]](tel:[REDACTED]) (Verizon has turned off the private caller).

I look forward to hearing back.



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Please consider the environment before printing this e-mail

The funds that was suppose to go to you and Joe was original \$650,000., after that was paid it was told to me that the price moved up to \$700,000. There was a profit built in for the Mexican broker and me. We were splitting the 50K. That wind up not happening and we received only the 700K. I was not that involved and I just wrote my 25K off. I have never seen your aircraft nor the logbooks.

Respectfull

Soboleski Law, PC

900 Hendersonville Rd. Suite 302

Asheville, NC 28803

Dear Sir,

In response to your lawsuit, Case 1:11-cv-00297-MR-DLH, dated 11/8/2011.

As I told the plaintiff before, I was an aircraft broker at the time and have never seen the aircraft, the owner or the buyer. I received funds from the buyer in the amount of \$700,000.00 USD and passed the entire amount on to Dove Air. I received NO compensation from this transaction. I have never been a partner with Joe Duncan or been involved with his company except to sell him aircraft or broker aircraft that he has in inventory.

I ask that I be removed from this lawsuit as I was not involved with your client.

Regards,



Edd Conn

11/23/11

**PLAINTIFF'S
EXHIBIT**